

REMARKS

The Office Action of January 16, 2004, has been received and reviewed. Claims 1-33 are pending in the application, of which claims 5, 7 and 22 have been withdrawn from consideration as being directed to a non-elected invention. Claims 8 and 9 are allowed, claims 2, 4, 12, 13, 32 and 33 stand rejected, and claims 1, 3, 6, 10, 11, 14-21 and 23-31 stand objected to. Claims 1-4, 10-19, 21 and 23 have been amended, claims 32 and 33 have been canceled, and new claims 34 and 35 have been added as set forth herein. All amendments and cancellations are made without prejudice or disclaimer. Reconsideration is requested.

Claims Objections

Claims 1-4, 10-19, 23 and 33 were objected to as assertedly containing informalities. Claims 1-4, 10-19 and 23 have been amended in accordance with the suggestions of the Examiner. Removal of the objections is requested.

Claims 6, 20-21, 25 and 28-31 were objected to for depending on an objected to base claim. Since the base claims have been amended to remove the objections, claims 6, 20-21, 25 and 28-31 should be in condition for allowance.

Claims 24 and 26-27 were objected to as depending on rejected base claims. Since the base claims from which claims 24 and 26-27 depend have been amended to remove the rejections thereof, claims 24 and 26-27 should be in condition for allowance.

Rejections under 35 U.S.C. § 112, first paragraph

Written Description

Claims 2, 4, 12-13 and 32-33 stand rejected under 35 U.S.C. § 112, first paragraph, as assertedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors has possession of the claimed invention. Claims 32 and 33 have been canceled rendering the rejections thereof moot. Applicants respectfully traverse the rejections as set forth herein.

Although applicants do not agree that any of claims 2, 4 or 12-13 lack compliance with the written description requirement, to expedite prosecution, the element directed to a fragment

of SEQ ID NO: 1 or SEQ ID NO: 3 having 90% identity with SEQ ID NO: 1 or SEQ ID NO: 3, wherein the fragment encodes the polypeptide having the diacylglycerol acyltransferase activity has been removed from claims 2 and 4. Thus, claims 2 and 4, and claims 12 and 13 depending therefrom should comply with the written description requirement.

Reconsideration and withdrawal of the written description rejections of claims 2, 4 and 12-13 are requested.

Enablement

Claims 2, 4, 12-13 and 32-33 stand rejected under 35 U.S.C. § 112, first paragraph, as assertedly lacking enablement for claims broadly drawn to an isolated nucleic acid molecule encoding a polypeptide having diacylglycerol acyltransferase activity, wherein the nucleic acid molecule comprises a sequence that is a fragment of SEQ ID NO: 1 or 3 and wherein the fragment exhibits 90% sequence identity with SEQ ID NO: 1 or 3. Claims 32 and 33 have been canceled rendering the rejections thereof moot. Applicants respectfully request withdrawal of the rejections as set forth herein.

Although applicants do not agree that any of claims 2, 4 or 12-13 lack compliance with the enablement requirement, claims 2 and 4 have been amended as previously discussed herein. As amended, claims 2 and 4, and claims 12-13 depending therefrom should be enabled.

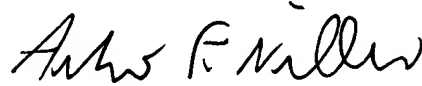
Reconsideration and withdrawal of the enablement rejections of claims 2, 4 and 12-13 are requested.

CONCLUSION

In view of the foregoing amendments and remarks, the applicants submit that the claims define patentable subject matter and are now in condition for allowance. Should questions remain after consideration of the foregoing, the Office is kindly requested to contact the applicants' attorney at the address or telephone number given herein.

Serial No. 09/623,514

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew F. Nilles". The signature is fluid and cursive, with the first name "Andrew" and last name "Nilles" clearly distinguishable.

Andrew F. Nilles

Registration No. 47,825

Attorney for Applicants

TRASKBRITT, PC

P.O. Box 2550

Salt Lake City, Utah 84110-2550

Telephone: 801-532-1922

Date: April 12, 2004

AFN

Document in ProLaw